



# *COMMONWEALTH of VIRGINIA*

## *DEPARTMENT OF ENVIRONMENTAL QUALITY*

### PIEDMONT REGIONAL OFFICE

4949-A Cox Road, Glen Allen, Virginia 23060

(804) 527-5020 Fax (804) 527-5106

[www.deq.virginia.gov](http://www.deq.virginia.gov)

Douglas W. Domenech  
Secretary of Natural Resources

David K. Paylor  
Director

Michael P. Murphy  
Regional Director

**STATE WATER CONTROL BOARD  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
HENRICO COUNTY  
FOR THE  
Henrico County 911 Training Center  
PC No. 2010-4376**

### **SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code § 62.1-44.15, between the State Water Control Board and Henrico County, for the purpose of resolving certain violations of the State Water Control Law and the applicable Regulations

### **SECTION B: Definitions**

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Aboveground storage tank" or "AST" means any one or combination of tanks, including pipes, used to contain an accumulation of oil at atmospheric pressure, and the volume of which, including the volume of the pipes, is more than 90% above the surface of the ground. This term does not include line pipe and breakout tanks of an interstate pipeline regulated under the federal Accountable Pipeline Safety and Partnership Act of 1996 (49 USC § 60101 *et seq.*)
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

4. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
5. "Discharge" means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.
6. "Facility" means any development or installation within the Commonwealth that deals in, stores or handles oil and includes a pipeline. The facility, called the Henrico County 911 Training Center, is located at 7701 East Parham Road, Henrico, Virginia.
7. "County" means the County of Henrico, a political subdivision of the Commonwealth of Virginia. The County is a "person" within the meaning of Va. Code § 62.1-44.34:14.
8. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 62.1-44.15.
9. "Oil" means oil of any kind and in any form, including, but not limited to, petroleum and petroleum by-products, fuel oil, lubricating oils, sludge, oil refuse, oil mixed with other wastes, crude oils and all other liquid hydrocarbons regardless of specific gravity. *See* Va. Code § 62.1-44.34:14.
10. "Operator" means any person who owns, operates, charters by demise, rents, or otherwise exercises control over or responsibility for a facility or a vehicle or a vessel.
11. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the State Water Control Law.
12. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
13. "Rocky Branch" means surface waters and is "state waters" under State Water Control Law and is located in the Upham Brook watershed, James River Basin. During the 2008 305(b)/303(d) cycle the watershed was assessed as not supporting of the Recreation Use due to E. coli violations; therefore it was considered Category 5A. The tributaries were fully supporting of the Aquatic Life Use, fully supporting with observed effects of the fish Consumption Use due to the VDH fish consumption advisory for kepone, and were not assessed for the Wildlife Use. The bacterial TMDL was subsequently approved by the EPA on 7/24/2008 and by the SWCB on 4/28/2009. Due to the intermittent nature of the creek, Rocky Branch is considered a Tier 1 waterbody. It is not currently proposed for designation as a Tier 3 Exceptional Water
14. "Site" means the facility, land, road, storm drain(s) and surface water(s) adversely affected by the oil discharge.
15. "State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 *et seq.*) of Title 62.1 of the Va. Code. Article 11 (Va. Code §§ 62.1-44.34:14 through 62.1-44.34:23) of the State Water Control Law addresses Discharge of Oil Into Waters.

16. "State waters" means all water, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands. Va. Code § 62.1-44.3.
17. "Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of underground pipes connected thereto) is 10% or more beneath the surface of the ground.
18. "Va. Code" means the Code of Virginia (1950), as amended.
19. "VAC" means the Virginia Administrative Code.

### **SECTION C: Findings of Fact and Conclusions of Law**

1. The County, is an Operator of a 250 gallon aboveground storage tank which is located at the Facility. The aboveground storage tank contains oil, in the form of diesel fuel, which is used for heating purposes and to run the emergency generator for the Facility. The aboveground storage tank is exempt from certain AST requirements, pursuant to 9 VAC 25-91-30.
2. On February 2, 2010, the Department received notification of a discharge of an unknown amount of diesel fuel, in Rocky Branch, a state water, located along Parham Road in Henrico County.
3. On February 2, 2010, DEQ staff responded to the report and investigated the discharge. The Henrico County Environmental Coordinator, Henrico Fire and Emergency Management Services, and the Engineering and Environmental Services Division of Public Works (EESD) had immediately responded to the reported discharge of diesel fuel. A Henrico County contractor, mobilized to the Site about 1 PM that day. DEQ staff observed a sheen upon and discoloration of Rocky Branch, and the County and its contractor performing cleanup and removal activities by placing booms, absorbent pads and using vacuum trucks to remove the diesel fuel from state waters. The discharged diesel fuel was traced back to the Facility.
4. The discharge was reported by the County to be caused by the overfilling of a 250 gallon "day" tank, due to a faulty float switch. The diesel fuel had migrated through secondary containment back to the underground storage tank sumps, filling the sumps, then flowed subsurface through the parking lot via french drains down gradient to a storm water drop inlet which discharges to Rocky Branch.
5. On February 4, 2010, DEQ received notification of a fish kill in Rocky Branch. DEQ staff responded to the report on February 5, 2010 and conducted an investigation of Rocky Branch. DEQ staff found that the fish kill extended approximately 0.3 mile and counted 642 dead fish.

6. Va. Code § 62.1-44.34:18 prohibits the discharge of oil into or upon state waters, lands, or storm drain systems that (i) violate applicable water quality standards or a permit or certificate of the Board or (ii) cause a film or sheen upon or discoloration of the surface of the water or adjoining shorelines or cause a sludge or emulsion to be deposited beneath the surface of the water or upon adjoining shorelines.
7. On March 3, 2010, the Department issued Notice of Violation No. 10-03-PRO-501 to Henrico County for a discharge of oil to state waters which resulted in a sheen upon and discoloration of state waters and for the resulting fish kill.
8. On March 24, 2010 and April 15, 2010, DEQ staff met with representatives of Henrico County and their consultants to discuss the discharge, the emergency response, spill control and clean-up, and future actions. At the April 15, 2010 meeting, the County submitted a memo summarizing the discharge and current status of the incident. DEQ staff requested additional information regarding the method used to calculate the diesel fuel recovered during the clean-up.
9. On April 23, 2010, Henrico County notified DEQ that approximately 5,602 gallons of diesel fuel was discharged and 5,477.4 gallons were recovered. Approximately 124.6 gallons remain in the environment.
10. On July 15, 2010, DEQ staff received the "Initial Abatement Report/Site Characterization Report" submitted by the County's consultant, which described the cause, extent and impact of the oil discharge from the Facility, the remediation activities, restoration of the Site by June 21, 2010, and closure of the Site by June 23, 2010.
11. Henrico County has taken steps to prevent an occurrence of a similar unpermitted discharge, by temporarily installing two above ground storage tanks to use while the aboveground and underground storage tank system is being upgraded. The upgrade includes a new alarm system and procedures for notification of any system malfunctions. The County is also updating the County wide Standard Operating Procedures to address equipment malfunction(s) and the County's response.
12. Based on the results of the February 2, 2010 diesel fuel discharge investigation, the February 5, 2010 fish kill investigation, the April 15, 2010 memo and April 23, 2010 documentation submitted by Henrico County, and the July 15, 2010 Initial Abatement Report/Site Characterization Report, the Board concludes that Henrico County has violated the Va. Code § 62.1-44.34:18, by discharging oil, in the form of diesel fuel, into state waters causing a sheen, discoloration, and the resulting fish kill as described in paragraphs C(3) through C(5), above.

**SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ **62.1-44.34:20** and upon consideration of Va. Code § 10.1-1186.2, the Board orders Henrico County, and Henrico County agrees:

1. To perform the actions described in Appendix A of this Order; and
2. To a civil charge of \$84,030 in settlement of the violations cited in this Order, to be paid as follows:
  - a. Henrico County shall pay \$21,008 of the civil charge within 30 days of the effective date of this Order, payable to the "Treasurer of Virginia", and
    - i. Reimburse DEQ \$589.08 for costs incurred in investigating the oil discharge, within 30 days of the effective date of the Order, payable to the "Treasurer of Virginia", and
    - ii. Henrico County Shall pay \$386.82 for the fish kill replacement costs, payable to the "Department of Game and Inland Fisheries".

Payment shall be made by **separate**, certified check[s], money order[s] or cashier's check[s] and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

**Henrico County** shall include its Federal Employer Identification Number (FEIN) [(xx-xxxxxxx)] with the payments and shall indicate that the payment of the civil charge is being made in accordance with the requirements of this Order for deposit into the Virginia Petroleum Storage Tank Fund (VPSTF); that the payment of the fish replacement costs is for the Department of Game and Inland Fisheries; and, that payment of the fish kill investigative costs is for reimbursement of DEQ expenditures.

- b. **Henrico County** shall satisfy \$63,022 of the civil charge by satisfactorily completing the Supplemental Environmental Project (SEP) described in Appendix A of this Order.
- c. The net project costs of the SEP to **Henrico County** shall not be less than the amount set forth in Paragraph D.2.b. If it is, **Henrico County** shall pay the remaining amount in accordance with Paragraph D.2.a of this Order, unless otherwise agreed to by the Department. "Net project cost"

means the net present after-tax cost of the SEP, including tax savings, grants, and first-year cost reductions and other efficiencies realized by virtue of project implementation. If the proposed SEP is for a project for which the party will receive an identifiable tax savings (e.g., tax credits for pollution control or recycling equipment), grants, or first-year operation cost reductions or other efficiencies, the net project cost shall be reduced by those amounts. The costs of those portions of SEPs that are funded by state or federal low-interest loans, contracts, or grants shall be deducted.

- d. By signing this Order **Henrico County** certifies that it has not commenced performance of the SEP.
- e. **Henrico County** acknowledges that it is solely responsible for completing the SEP project. Any transfer of funds, tasks, or otherwise by **Henrico County** to a third party, shall not relieve **Henrico County** of its responsibility to complete the SEP as described in this Order.
- f. In the event it publicizes the SEP or the SEP results, **Henrico County** shall state in a prominent manner that the project is part of a settlement of an enforcement action.
- g. The Department has the sole discretion to:
  - i. Authorize any alternate, equivalent SEP proposed by the **Henrico County**; and
  - ii. Determine whether the SEP, or alternate SEP, has been completed in a satisfactory manner.
- h. Should the Department determine that **Henrico County** has not completed the SEP, or alternate SEP, in a satisfactory manner, the Department shall so notify **Henrico County** in writing. Within 30 days of being notified, **Henrico County** shall pay the amount specified in Paragraph D.2.b, above, as provided in Paragraph D.2.a, above.

#### **SECTION E: Administrative Provisions**

- 1. The Board may modify, rewrite, or amend this Order with the consent of Henrico County for good cause shown by Henrico County, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
- 2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Henrico County admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Henrico County consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Henrico County declares it has received fair and due process under the Administrative Process Act and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Henrico County to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Henrico County shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Henrico County shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Henrico County shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which Henrico County intends to

assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Henrico County. Nevertheless, Henrico County agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
  - a. Henrico County petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
  - b. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Henrico County.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Henrico County from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Henrico County and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Henrico County certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Henrico County to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Henrico County.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Henrico County voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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Michael P. Murphy, Regional Director  
Department of Environmental Quality



Henrico County voluntarily agrees to the issuance of this Order.

Date: \_\_\_\_\_ By: \_\_\_\_\_, \_\_\_\_\_  
(Person) (Title)  
Henrico County

Commonwealth of Virginia

City/County of \_\_\_\_\_

The foregoing document was signed and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010, by \_\_\_\_\_ who is \_\_\_\_\_ of Henrico County.

Notary Public

Registration No. \_\_\_\_\_

My commission expires: \_\_\_\_\_

Notary seal:

APPENDIX A  
SUPPLEMENTAL ENVIRONMENTAL PROJECT

In accordance with Va. Code § 10.1-1186.2, Henrico County shall perform the Supplemental Environmental Project (SEP) identified below in the manner specified in this Appendix.

1. The SEP to be performed by Henrico County is to upgrade three petroleum tank systems in the County's administration complex to reduce accidental releases and to minimize the size of a release due to potential equipment failure. In each system a large underground storage tank ("UST") feeds a much smaller above ground storage tank ("AST day tank") that holds the petroleum product for use by a backup electric generator. The County proposes to install an Automatic Tank Gauging (ATG) System that uses sensor probes installed inside the fuel storage tanks and inside the sumps to detect leaks originating from the tanks and piping via the sensor probes. The ATG System includes a computer console to continuously monitor for leaks. If a leak is detected, the console will automatically notify responsible County personnel via a paging system. The installation of the ATG System would notify County personnel to take immediate actions to prevent any release, or to significantly reduce the magnitude of a release. In addition, the County proposes to upgrade the level-control equipment in each system's AST day tank to add critical shutoff.
2. The SEP shall be completed by no later than **January 10, 2012**.
3. Henrico County shall submit progress reports on the SEP on a **monthly** basis, due the **10<sup>th</sup> day** of each month.
4. Henrico County shall submit a written final report on the SEP, verifying that the SEP has been completed in accordance with the terms of this Order, and certified either by a Certified Public Accountant or by a responsible corporate officer or owner. Henrico County shall submit the final report and certification to the Department within **30 days** from completion of the SEP.
5. If the SEP has not or cannot be completed as described in the Order, Henrico County shall notify DEQ in writing no later than **30 days** of discovery. Such notification shall include:
  - a. an alternate SEP proposal, or
  - b. payment of the amount specified in Paragraph D.2.b as described in Paragraph D.2.a.
6. Henrico County hereby consents to reasonable access by DEQ or its staff to property or documents under the party's control, for verifying progress or completion of the SEP.
7. Henrico County shall submit to the Department written verification of the final overall and net project cost of the SEP in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation within **30 days** of the project

completion date. For the purposes of this submittal, net project costs can be either the actual, final net project costs or the projected net project costs if such projected net project costs statement is accompanied by a CPA certification or certification from Henrico County's Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.

8. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Cynthia Akers  
Department of Environmental Quality  
Piedmont Regional Office  
4949-A Cox Road  
Glen Allen, Virginia 23060

**Attachment 1**  
**Analysis of Proposed Supplemental Environmental Project**  
**Va. Code § 10.1-1186.2**

**Source/Facility/Regulated Party**

County of Henrico, Virginia (the "County").

**Project Description:**

The County proposes to upgrade three petroleum tank systems in the County's administration complex to reduce the likelihood of accidental releases and to minimize the size of any unavoidable releases. Each of the three tank systems targeted for improvement in this SEP is functionally similar to the tank system that is the subject of this enforcement action. In each system a large underground storage tank ("UST") feeds a much smaller aboveground storage tank ("AST day tank") that holds the petroleum product for use by a backup electric generator. In the case of Jail West and the Administration Building, the larger UST also feeds a boiler used for heating the jail.

The following is a description of the general location, size and use of the tank systems:

- Administration Building, 4301 E. Parham Rd., 4,000 gal. UST feeding small (less than 250 gal.) day tank, use: heating and generator
- Administration Annex, 4301 E. Parham Rd., 4,000 gal. UST feeding small (less than 250 gal) AST day tank, use: generator only
- Jail West, 4301 E. Parham Rd., 4,000 gal. UST feeding small (less than 250 gal.) AST day tank, use: heating and generator

The County proposes to install a Veeder-Root system in each of the three USTs. The Veeder-Root monitoring system is an Automatic Tank Gauging System that uses a sensor probe installed inside the fuel storage tank to detect leaks. The system will also detect leaks originating from piping via a sensor probe installed inside the sump where the secondary containment piping is routed. As such, the Veeder-Root system would detect a release caused by overfilling the day tank because such a release would initially pool in the UST's sump via the piping between the UST and the AST day tank. The Veeder-Root system includes a computer console that continuously monitors the tank and piping for leaks through the sensor probes. If a leak from the tank or piping is detected, the console will automatically alert Buildings and Grounds personnel via a paging system. In the case of the Jail West system, an alarm will be located in the jail's central control room.

In addition to the installation of the three Veeder-Root systems, the County proposes to upgrade the level-control equipment in each system's small AST day tank to add critical high shutoff. In the case of Jail West, the level control system will include an alarm status panel in the jail's Central Control room.

**1. Explain how the project is environmentally beneficial:**

The proposed project would significantly reduce the likelihood of any release of petroleum product from the improved tanks into the environment. The proposed level

control systems are an improvement on the existing float system and would reduce the possibility of a repeat of the failure which caused the release that is they subject of this consent order – overfilling of the smaller day tank when product is pumped from the large storage tank into the smaller day tank. The Veeder-Root system would notify responsible County personnel in the event that a level control system fails. In this capacity, it acts as a backup to the level control improvements. However, the Veeder-Root system is also designed to detect leaks in the UST from a variety of causes besides overfilling. In any event, this Veeder-Root notification would permit County personnel to take immediate actions to prevent any release, or to significantly reduce the magnitude of an unpreventable release.

2. **A SEP may only be a partial settlement: show what initial civil charge was computed, along with the appropriate SEP amount and final civil charge figure:**

Civil Charge/Penalty without a SEP	\$ 84,030
Minimum Payment Amount with a SEP (see Section VII)	\$ 21,008
Projected Net Project costs (see No. 6, below)	\$ 63,022
SEP Mitigation Amount	\$ 63,022
Final Monetary Civil Charge/Penalty	\$ 21,008

3. **Explain how the SEP is not otherwise required by law and is solely the result of the settlement of an alleged violation:**

The proposed SEP is not required by law. All three of the AST day tanks proposed for level-control improvements are smaller than 660 gals. and are therefore unregulated. See 9 VAC 25-91-30.A. As such, advanced level-control systems, such as those proposed, are not required by state law or regulations.

The three USTs being improved with a Veeder-Root release detection system are used either to fuel electrical backup emergency generators or to store heating oil for consumption on premises where stored. These USTs were installed prior to September 15, 2010. The three tank systems are therefore not required to have release detection equipment. See 9 VAC 25-580-10 (definition of UST excluding heating oil tanks) and 9 VAC 25-580-20.D (exclusion from requirements of Part IV – release detection – for emergency power generators).

While the County is a participant the VEEP program, its participation is limited to the County's solid waste program. Furthermore, the County's is only an E-2 level participant. Since none of the tanks involved in the proposed SEP are associated with the County's solid waste operations, the proposed improvements are not required by the VEEP program.

4. **Is there reasonable geographic nexus? If YES, explain:**

All three tank systems proposed for improvement are located within approximately one mile of the site of the release. A release from any of these tanks

would drain to Lake Henning, and then continue down Rocky Branch to North Run and eventually to the James River. Lake Henning and Rocky Branch also received oil from the release that is the subject of this enforcement action.

**If NO, then does the SEP advance one of the declared objectives of the law or regulation that is the basis of the enforcement action (always preferred)? Explain:**

The proposed SEP advances the declared objectives of the State Water Control Law. The entire purpose of the proposed project is to prevent and minimize potential releases of petroleum products into the waters of the state, as well as into groundwater.

**5. Check all the qualifying categories that may apply (at least one must be checked):**

<input checked="" type="checkbox"/> Public Health	<input checked="" type="checkbox"/> Environmental Restoration and Protection
<input checked="" type="checkbox"/> Pollution Prevention	<input type="checkbox"/> Environmental Compliance Promotion
<input checked="" type="checkbox"/> Pollution Reduction	<input checked="" type="checkbox"/> Emergency Planning and Preparedness

**6. Each of the following factors MUST be considered. Respond to each:**

- **Net Project Costs (zero out all State or Federal government loans, grants, tax credits for project) (net cash flow to party should not be positive). Explain:**

The total estimated project cost is \$65,899. The total estimated project cost exceeds the amount available to offset the County's civil penalty by approximately \$2,877. The County understands that it will not receive any benefits (such as penalty offsets) for any project costs incurred above \$63,022.

Please find attached as Exhibit A, a quote from Carter Machinery for \$17,707 for upgrades to the level control system at Jail West. The level control improvements for the Administration and Administration Annex facilities will cost approximately \$16,500. This estimate is based on the \$11,000 in costs actually incurred by the County in improving the level control system at the Training Center AST day tank after the release. A copy of the County's invoice for this work is attached as Exhibit B. However, the County has an extra AST day tank with a new level-control system that it hopes to reuse at either the Administration or Administration Annex.<sup>1</sup> As such, only one of these systems will cost \$11,000. For the other, the cost was halved to

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<sup>1</sup> The County purchased and installed a new level control system in the Training Center AST day tank after the February petroleum release. It has since decided to upgrade to a larger AST day tank at this location. As a result, a spare AST day tank with a new, improved level control system is available to be used elsewhere. Obviously, the County is not seeking to offset its penalty with the cost of this AST or its level control system. The SEP cost includes only an estimate of the labor associated with installation of this spare equipment at the new location. This labor was estimated by Fred Drake, the County's Buildings and Grounds Manager, to be one-half of the total cost of installation of a new level control system.

\$5,500. The three level control system improvements will cost a total of approximately \$34,207 (\$17,707 + \$11,000 + \$5,500).

Also attached as Exhibit C is an estimate from Baird Petroleum Equipment, LLC for installation of the proposed Veeder-Root systems. This estimate states that each Veeder-Root system will cost approximately \$10,564, installed. The total estimated cost for all three Veeder-Root systems is therefore \$31,692 (\$10,564 + \$10,564 + \$10,564).

The County is not using any grant money, nor receiving any tax incentives, for the proposed work. Nor does it expect any cost savings or reduced operational expenses from this proposed project.

- **Benefits to the Public or the Environment (should exceed VEERF value; include any Community Involvement). Explain:**

The main public benefit of the proposed project is the avoidance of environmental and natural resource damage by preventing or minimizing petroleum releases. Petroleum releases can result in significant damage to water quality. Releases can also damage the aquatic ecosystem, including plants and animals living in the affected habitats. The ecosystem damage from an oil spill can last for years, if a release is large enough, or if it proves impossible to clean up.

Another benefit of the proposed project is that avoiding releases also prevents costs to the petroleum tank release fund. Even a small petroleum release would likely result in substantially more than \$63,022 in clean up costs. Most, if not all, of these costs would ultimately be paid for by the tank fund.

- **Innovation. Explain:**

The Veeder-Root system proposed for installation in two of the three tank systems is a state-of-the-art tank monitoring, notification and release detection system. In the event of a release, the system will automatically notify the responsible County personnel by pager and/or cellular phone. The County's switchboard, or the jail's central control room, would also be notified so that additional personnel can be informed that a potential release has been detected.

- **Impact on Minority or Low-Income Populations. Explain:**

The proposed project will have benefits for all the County's residents, including low-income and minority populations. The populations that live near or use the water bodies that would receive any petroleum release (Rocky Branch, North Run and the James River) would experience the greatest positive impacts from the proposed project. However, it is not anticipated that there will be any particular benefits to the County's minority or low-income populations beyond those that accrue to the public at large. Certainly, the proposed project would not adversely effect any low-income or minority populations.

- **Multimedia Impact. Explain:**

The proposed project would have positive impacts on the following media: water, air and land. Petroleum releases affect not only water quality, but also result in airborne emissions of Volatile Organic Compounds ("VOCs"). Preventing or minimizing these releases also prevents or minimizes the attendant VOC emissions. Petroleum releases can contaminate land as well as water.

- **Pollution Prevention. Explain:**

The entire purpose of the proposed project is to prevent pollution by preventing or mitigating potential petroleum releases from three of the County's tank systems. See the Response to Question 1 for an additional explanation of the pollution prevention benefits of the County's proposal.

\_\_\_ Division of Enforcement, Other RO, Program – Concurrence/Consultation

Recommended/Not Recommended

  
\_\_\_\_\_  
(DEQ Regional Staff)

SEP Approved/Disapproved  
(Subject to Execution of the Order)

  
\_\_\_\_\_  
(DEQ Regional Director)